



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-129]

Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that certain walk-behind lawn mowers and parts thereof (lawn mowers) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV).

The period of investigation (POI) is October 1, 2019 through March 31, 2020. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Marc Castillo or Fred Baker, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0519 or (202) 482-2924.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on June 15, 2020.¹ We selected Ningbo Daye Garden Machinery Co., Ltd. (Ningbo Daye) as the mandatory respondent.² On August 11, 2020, Commerce postponed the

¹ See *Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 37417 (June 15, 2020).

² See Memorandum, "Less-Than-Fair-Value Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Respondent Selection," dated August 12, 2020.

preliminary determination of this investigation, and the revised deadline is now December 22, 2020.³ For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.⁴ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are lawn mowers from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,⁵ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁶ No interested party commented on the scope of the investigation within the allotted time period. However, on November 6, 2020, Commerce solicited comments from interested parties regarding the overlap in the scope of the antidumping (AD) and countervailing duty (CVD) investigations of lawn mowers from China and the AD investigation of lawn mowers from the Socialist Republic of Vietnam with the scope of the AD and CVD investigations of certain

³ *See Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 48506 (August 11, 2020).

⁴ *See* Memorandum, "Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Decision Memorandum for Preliminary Affirmative Determination of Sales at Less Than Fair Value," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁵ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁶ *See Initiation Notice*.

vertical shaft engines and parts thereof from China.⁷ Certain interested parties submitted comments and rebuttal comments. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Determination Memorandum.⁸ As a result of our analysis of comments received, we have preliminarily revised the scope of the investigation. *See* Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a). Because China is a non-market economy within the meaning of section 771(18) of the Act, Commerce has calculated normal value in accordance with section 773(c) of the Act.

In addition, Commerce has relied on facts available under section 776(a) of the Act to determine the cash deposit rate assigned to the China-wide entity. Furthermore, pursuant to sections 776(a) and (b) of the Act, because the China-wide entity did not cooperate to the best of its ability in responding to the Commerce's request for data, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences, for the China-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

⁷ *See* Memorandum, "Request for Comments Regarding Scope Overlap," dated November 6, 2020.

⁸ *See* Memorandum, "Antidumping and Countervailing Duty Investigations of Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum," dated concurrently with this notice.

Combination Rates

In the *Initiation Notice*, Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation.⁹

Policy Bulletin 05.1 describes this practice.¹⁰ In this investigation, we calculated producer/exporter combination rates for respondents eligible for separate rates.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Producer	Exporter	Estimated Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Subsidy Offsets) (Percent)
Ningbo Daye Garden Machinery Co., Ltd.	Ningbo Daye Garden Machinery Co., Ltd.	67.95	57.36
Chongqing Dajiang Power Equipment Co., Ltd.	Chongqing Dajiang Power Equipment Co., Ltd.	67.95	57.39
MTD Machinery (Suzhou) Co., Ltd.	MTD Machinery (Suzhou) Co., Ltd.	67.95	57.39
Qianjiang Group Wenling Jennfeng Industry Inc.	Sumec Hardware & Tools Co., Ltd.	67.95	57.39
Sumec Hardware & Tools Co., Ltd.	Sumec Hardware & Tools Co., Ltd.	67.95	57.39
Zhejiang KC Mechanical & Electrical Co., Ltd.	Sumec Hardware & Tools Co., Ltd.	67.95	57.39
Zhejiang Dobest Power Tools Co., Ltd.	Zhejiang Amerisun Technology Co., Ltd.	67.95	57.39
Zhejiang Dobest Power Tools Co., Ltd.	Zhejiang Dobest Power Tools Co., Ltd.	67.95	57.39
Zhejiang YAT Electrical Appliance Co., Ltd.	Zhejiang YAT Electrical Appliance Co., Ltd.	67.95	57.39
Zhejiang Zhongjian Technology Co., Ltd.	Zhejiang Zhongjian Technology Co., Ltd.	67.95	57.39
China-Wide Entity		84.26	73.72

⁹ See *Initiation Notice*, 85 FR at 37421.

¹⁰ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise, as described in the scope of the investigation section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted average amount by which normal value exceeds U.S. price, as indicated in the chart above, as follows: (1) for the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Chinese producers/exporters of subject merchandise that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (3) for all third-country exporters of subject merchandise not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Chinese producer/exporter combination (or China-wide entity) that supplied that third-country exporter.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce has made a preliminary affirmative determination for domestic subsidy pass-through or export subsidies, Commerce has offset the calculated estimated weighted-average dumping margin by the appropriate rate(s). Any such adjusted rates may be found in the Preliminary Determination section's chart of estimated weighted-average dumping margins above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margins calculated in this preliminary determination unadjusted for the passed-through domestic subsidies or for export subsidies at the time the CVD provisional measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID-19 pandemic, Commerce is unable to conduct on-site verification in this investigation.

Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments will be provided to interested parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the

deadline date for case briefs.¹¹ Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.¹² Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and time of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

¹¹ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements); *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

¹² See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

On December 7, 2020, and December 9, 2020, pursuant to 19 CFR 351.210(e), MTD Products, Inc. (the petitioner)¹³ and respondent Ningbo Daye,¹⁴ respectively, requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months. In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

¹³ See Petitioner's Letter, "Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Request for Postponement of Final Determination," dated December 7, 2020.

¹⁴ See Ningbo Daye's Letter, "Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China, Case No. A-570-129: Request to Postpone Final Determination," dated December 9, 2020.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: December 22, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation consists of certain rotary walk-behind lawn mowers, which are grass-cutting machines that are powered by internal combustion engines. The scope of the investigation covers certain walk-behind lawn mowers, whether self-propelled or non-self-propelled, whether finished or unfinished, whether assembled or unassembled, and whether containing any additional features that provide for functions in addition to mowing.

Walk-behind lawn mowers within the scope of this investigation are only those powered by an internal combustion engine with a power rating of less than 3.7 kilowatts (kw). These internal combustion engines are typically spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a maximum displacement of 196cc. Walk-behind lawn mowers covered by this scope typically must be certified and comply with the Consumer Products Safety Commission (CPSC) Safety Standard For Walk-Behind Power Lawn Mowers under the 16 CFR Part 1205. However, lawn mowers that meet the physical descriptions above, but are not certified under 16 CFR Part 1205 remain subject to the scope of this proceeding.

The internal combustion engines of the lawn mowers covered by this scope typically must comply with and be certified under Environmental Protection Agency (EPA) air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. However, lawn mowers that meet the physical descriptions above but that do not have engines certified under 40 CFR Part 1054 or other parts of subchapter U remain subject to the scope of this proceeding.

For purposes of this investigation, an unfinished and/or unassembled lawn mower means at a minimum, a sub-assembly comprised of an engine and a cutting deck shell attached to one another. A cutting deck shell is the portion of the lawn mower—typically of aluminum or steel—that houses and protects a user from a rotating blade. Importation of the subassembly whether or not accompanied by, or attached to, additional components such as a handle, blade(s), grass catching bag, or wheel(s) constitute an unfinished lawn mower for purposes of this investigation. The inclusion in a third country of any components other than the mower subassembly does not remove the lawn mower from the scope. Lawn mowers that meet the physical description above are covered by the scope of this investigation regardless of the origin of its engine, unless such lawn mowers contain an engine that is covered by the scope of the ongoing proceedings on certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines) from China. If the proceedings on small vertical engines from China are terminated, the lawn mowers containing small vertical engines from China will be covered by the scope of this proceeding.

The lawn mowers subject to this investigation are typically at subheading: 8433.11.0050. Lawn mowers subject to this investigation may also enter under HTSUS 8407.90.1010 and 8433.90.1090. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Scope of the Investigation
- VI. Product Characteristics
- VII. Discussion of the Methodology
- VIII. Currency Conversion
- IX. Adjustment Under Section 777(A)(F) of the Act
- X. Adjustment to Cash Deposit Rate for Export Subsidies
- XI. ITC Notification
- XII. Recommendation